

**United States Department of the Interior
Bureau of Land Management**

Categorical Exclusion

DOI-BLM-CO-SO50-2014-0036

June 2014

**Right-of-Way to Delta County
For an Existing Road**

*Location: Approximate 4 miles northwest of Paonia,
Delta County, Colorado*

**U.S. Department of the Interior
Bureau of Land Management
Uncompahgre Field Office
2465 South Townsend Avenue
Montrose, CO 81401
Phone: (970) 240-5300**



**U.S. Department of the Interior
Bureau of Land Management
2465 South Townsend Avenue
Uncompahgre Field Office
Montrose, CO, 81401**

CATEGORICAL EXCLUSION

NUMBER: DOI-BLM-CO-S050-2014-0036

CASEFILE: COC-75635

PROJECT NAME: County Road Right-of-Way for an Existing Road

PLANNING UNIT: Uncompahgre Basin Resource Management Unit

LEGAL DESCRIPTION: 6th Principal Meridian, Colorado,
T. 13 S., R. 92 W., Sections 14 and 23.

APPLICANT: Delta County

DESCRIPTION OF PROPOSED ACTION: The proposed action is to issue a right-of-way to Delta County to operate and maintain Johnson Road. The southern segment (approximately 0.6 miles) was previously under right-of-way to Bowie Resources; however, Bowie relinquished the ROW. Johnson Road is located approximately 4 miles northwest of Paonia and is a spur off Stevens Gulch Road.

The right-of-way would be approximately 1.34 miles long, 60 feet wide and contain 9.745 acres. No construction work or surface disturbing activities, other than routine maintenance is anticipated at this time. The road does continue for approximately another 1 ½ miles to the northwest; however, the County only maintains the initial segment for which they applied.

The right-of-way would be issued under FLPMA in perpetuity and would be subject to the stipulations in Exhibit A. As a local government the County is rental exempt.

PLAN CONFORMANCE REVIEW: The Proposed Action is subject to and has been reviewed for conformance with (43 CFR 1610.5, BLM 1617.3) the following plan:

Name of Plan: Uncompahgre Basin Resource Management Unit

Date Approved: July 1989

Decision Number/Page: Management Unit 7: Coal and Wildlife Habitat, Page 143

Decision Language: Land cases generated by other agencies, individuals and entities would be analyzed and processed on a case-by-case basis in accordance with guidance provided by the plan.

CATEGORICAL EXCLUSION REVIEW: The proposed action qualifies as a categorical exclusion under 516 DM 11.9, Number E(16) which allows issuance of rights-of-way for the use of existing facilities, improvements or sites for the same or similar purposes. None of the following exceptions in 516 DM 2, Appendix 2, apply.

Exclusion	YES	NO
1. Have significant adverse effects on public health and safety.	_____	<u> X </u>
2. Have adverse effects on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands, floodplains; national monuments; migratory birds; and other ecologically significant or critical areas.	_____	<u> X </u>
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources.	_____	<u> X </u>
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.	_____	<u> X </u>
5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.	_____	<u> X </u>
6. Be directly related to other actions with individually insignificant but cumulatively significant environmental effects.	_____	<u> X </u>
7. Have adverse effects on properties listed, or eligible for listing, in the National Register of Historic Places.	_____	<u> X </u>
8. Have adverse effects on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species.	_____	<u> X </u>
9. Have the potential to violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment.	_____	<u> X </u>
10. Have the potential for a disproportionately high and adverse effect on low income or minority populations.	_____	<u> X </u>
11. Restrict access to and ceremonial use of Indian sacred sites by Indian religious practitioners or adversely affect the physical integrity of such sacred sites.	_____	<u> X </u>
12. Significantly, contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species.	_____	<u> X </u>

INTERDISCIPLINARY REVIEW:

Name	Title	Area of Responsibility
Linda Reed	Realty Specialist	Lands and Realty
Glade Hadden	Archaeologist	Cultural, Native American Religious Concerns
Ken Holsinger	Biologist	T&E and Migratory Birds

REMARKS:

Cultural Resources: The proposed ROW consists entirely of previously disturbed surface, and is exempt from Cultural Resource inventory under the provisions of 8110.23B2. No further work is required.

Native American Religious Concerns: There are none known or anticipated for this project.

Threatened, Endangered and Sensitive Species: There are no threatened, endangered, or candidate species to the Endangered Species Act nor species considered sensitive by the BLM that currently occupy or derive import use of the proposed right-of-way or the surrounding vicinity.

To minimize impacts on migratory bird populations, it is recommended that no surface disturbing activities occur from May 15 through July 15. This timeframe encompasses the core breeding season for the majority of migratory birds in the project area. Project activities shall retain and avoid modifying identified cavity trees, snags, and perches in the project area.

To protect wintering big game and crucial habitats, no surface disturbing activities shall occur from December 1 through April 30. Any exceptions to this requirement must have prior written approval from the authorized officer.

NAME OF PREPARER: Linda Reed June 20, 2014

NAME OF ENVIRONMENTAL COORDINATOR: /s/ Bruce Krickbaum
Bruce Krickbaum

DATE: 6/23/14

COMPLIANCE WITH NEPA

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, Number E(16). This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The Proposed Action has been reviewed, and none of the extraordinary circumstances described in 516 DM 2 apply.

SIGNATURE OF AUTHORIZED OFFICIAL: /s/ Barbara Sharrow
Barbara Sharrow,
Uncompahgre Field Office, Field Manager

DATE SIGNED: 6/25/14

STIPULATIONS

1. The holder shall contact the authorized officer at least five days prior to the anticipated start of road construction or maintenance activities. For emergencies, the holder will contact the BLM as soon as possible after maintenance activities. The authorized officer may require and schedule a meeting with the holder prior to the holder's commencing such construction or maintenance activities on the right-of-way. The BLM authorized representative is Barney Buria, Environmental Protection Specialist, Uncompahgre Field Office, 2465 South Townsend, Montrose, Colorado 81401 or phone at (970) 240-5333. An alternate contact is Teresa Pfifer, Lands and Minerals Staff Supervisor, Uncompahgre Field Office, (970) 240-5316.
2. The holder shall construct, operate and maintain Johnson Road within this right-of-way in conformance with Delta County road standards. Road maintenance shall be performed to minimize erosion along the roadway and adjacent public land. Road maintenance shall include, but is not limited to, road blading, surfacing as necessary, constructing side ditches and maintenance of culverts and cattle guards as applicable. The holder may perform winter maintenance of the road, i.e. snowplowing, as deemed necessary.
3. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.
4. Pursuant to 43 CFR 10.4(g), the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and (d), you must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer.
5. Use of pesticides shall comply with the applicable Federal and state laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides, the holder shall obtain from the authorized officer written approval of the applicant's plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the authorized officer. The plan should be submitted no later than March 1 of any calendar year to cover

the proposed activities for the next growing season. Emergency use of pesticides shall be approved in writing by the authorized officer prior to such use.

6. The holder shall be responsible for weed control within the limits of the right-of-way. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations), including pesticides approved for use on BLM land.
7. The holder shall comply with applicable State standards for public health and safety, environmental protection and siting, construction, operation and maintenance, if these State standards are more stringent than Federal standards for similar projects.
8. The holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated regarding toxic substances or hazardous materials. In any event, the holder shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, section 102b. A copy of any report required or requested by any federal agency of state government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency of State government.
9. The authorized officer may suspend or terminate in whole, or in part, any construction or maintenance activities, when in his judgment, unforeseen conditions arise which result in the approved terms and conditions being inadequate to protect the public health and safety or to protect the environment.
10. All construction, operation and maintenance shall be within the authorized limits of the right-of-way granted herein.
11. No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support such equipment. If the equipment creates ruts in excess of four (4) inches deep, the soil shall be deemed too wet to adequately support the construction equipment. Emergency repairs to restore access are exempt; however, any damages to resources caused by emergency repairs during wet conditions will be repaired as directed by the authorized officer as soon as possible after the occurrence.
12. The holder shall disturb the minimum amount of soils and vegetation necessary for road maintenance and operation activities. The holder shall maintain the road to provide drainage and minimize erosion. Drainage crossings and water bars will be constructed to adequately reduce erosion. Culverts will be installed if necessary to maintain drainage and will be a minimum diameter of 18 inches. The holder will re-contour disturbed areas

outside of the roadway as necessary by grading to restore the area to approximately the original contour of the ground as directed by the authorized officer. Any excess and/or unsuitable materials will be disposed of as directed by the authorized officer.

13. The holder shall seed all disturbed areas, using an agreed upon method suitable for the location. Seeding shall be repeated if a satisfactory stand is not obtained as determined by the authorizing officer upon evaluation after the second growing season.
14. Prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree to an acceptable termination and rehabilitation plan as necessary. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.
15. To minimize impacts on migratory bird populations, it is recommended that no surface disturbing activities occur from May 15 through July 15. This timeframe encompasses the core breeding season for the majority of migratory birds in the project area. Project activities shall retain and avoid modifying identified cavity trees, snags, and perches in the project area.
16. To protect wintering big game and crucial habitats, no surface disturbing activities shall occur from December 1 through April 30. Any exceptions to this requirement must have prior written approval from the authorized officer.

**Department of the Interior
Bureau of Land Management
Uncompahgre Field Office
2465 South Townsend Avenue
Montrose, CO 81401**

Decision Record

(DOI-BLM-CO-S050-2014-0036 CX)

PROJECT NAME: County Road Right-of-Way for an Existing Road

DECISION: It is my decision to issue a right-of-way to Delta County to operate and maintain Johnson Road. Approximately 0.6 miles of the existing road was previously under right-of-way to Bowie Resources; but was subsequently relinquished. The road is located approximately 4 miles northwest of Paonia.

The right-of-way for the existing road is approximately 1.34 miles long, 60 feet wide and contains 9.745 acres on public land. No construction work or surface disturbing activities, other than routine maintenance is anticipated at this time. The right-of-way will be issued under FLPMA in perpetuity.

MITIGATION MEASURES:

All stipulations shown in Exhibit A of the Categorical Exclusion (CX) will be followed.

RATIONALE:

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, Number E(16). This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The Proposed Action has been reviewed, and none of the extraordinary circumstances described in 516 DM 2 apply.

COMPLIANCE WITH MAJOR LAWS and CONFORMANCE WITH LAND USE PLAN:

The decision is in compliance with applicable laws, regulations and policy, including the Endangered Species Act, Migratory Bird Treaty Act and National Historic Preservation Act. It is also in conformance with the Uncompahgre Basin RMP.

PUBLIC COMMENT:

The BLM informed the public about this project by listing it on the online Uncompahgre NEPA Register and a copy of the completed CX will be posted on the NEPA website.

ADMINISTRATIVE REMEDIES:

If you are adversely affected by this decision, within 30 days of receipt of this decision you have the right of appeal to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR §4.400. This decision goes into effect immediately and will remain in effect pending appeal unless a stay is granted (43 CFR §2801.10).

NAME OF PREPARER: Linda Reed

NAME OF ENVIRONMENTAL COORDINATOR: /s/ Bruce Krickbaum
Bruce Krickbaum

DATE 6/23/14

SIGNATURE OF AUTHORIZED OFFICIAL /s/ Barbara Sharrow
Barbara Sharrow
Field Manager
Uncompahgre Field Office

DATE SIGNED 6/25/14